

## Message Text

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E.O. 11652: NA

TAGS: PFOR, TQ

SUBJECT: MESSAGE TO ANDON AMARAICH

PASS STATUS LNO FROM AMBASSADOR WILLIAMS

PLEASE TRANSMIT FOLLOWING MESSAGE TO ANDON AMARAICH, CHAIR-

MAN, COMMISSION ON FUTURE STATUS AND TRANSITION, WITH INFO  
TO SENATOR BAILEY OLTER, SENATOR PETRUS TUN, PRESIDENT  
TOSIWO NAKAYAMA AND SPEAKER BETHWEL HENRY AS NOTED

DEAR MR. AMARAICH:

IN FURTHER RESPONSE TO YOUR LETTER OF JULY 1 AND YOUR  
EARLIER LETTER OF JUNE 22 I WOULD LIKE TO THANK YOU FOR  
CONVEYING TO ME SENATOR OLTER'S AND CONGRESSMAN DOMNICK'S  
REPLY TO MY INVITATION TO THEM TO MEET IN WASHINGTON TO  
PURSUE FURTHER THE MARINE RESOURCES ISSUE AND THE ALLOCA-  
TION OF THE PROPOSED U.S. FINANCIAL ASSISTANCE UNDER THE  
TERMS OF THE COMPACT OF FREE ASSOCIATION. WHILE WE REGRET  
THAT THEY CANNOT MEET WITH US, OUR LOS SPECIALISTS WILL BE  
PLEASED TO MEET WITH MR. WYLE AT HIS CONVENIENCE AND TO  
HEAR HIS FURTHER VIEWS.

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YOUR LETTER OF JUNE 22 KINDLY SET FORTH THE DUTIES AND

RESPONSIBILITIES OF THE NEW COMMISSION ON FUTURE POLITICAL STATUS AND TRANSITION AS PRESCRIBED BY MICRONESIAN LAW. IN COMPARISON WITH THE PREVIOUS CONGRESS OF MICRONESIA MANDATE TO THE JOINT COMMITTEE ON FUTURE STATUS TO NEGOTIATE A STATUS OF FREE ASSOCIATION WITH THE UNITED STATES, THE COMMISSION'S INSTRUCTIONS WOULD APPEAR TO BE MUCH MORE RESTRICTIVE AND IF INTERPRETED LITERALLY THEY WOULD SEEM TO INDICATE A NEW DIRECTION AND A DIFFERENT KIND OF FUTURE STATUS FOR MICRONESIA THAN CONTEMPLATED IN THE JUNE 2ND INITIALLED COMPACT OF FREE ASSOCIATION.

I REFER TO THE REQUIREMENT PLACED ON THE COMMISSION TO BRING THE COMPACT INTO STRICT CONFORMITY WITH THE PROPOSED CONSTITUTION FOR THE FEDERATED STATES OF MICRONESIA. AS WE UNDERSTAND IT, THE INITIALLED COMPACT IS NOW BEING REVIEWED BY SENATOR BAILEY OLTER'S COMMITTEE ON FUTURE STATUS AGAINST THIS CRITERION. IN YOUR LETTER YOU HAVE ALSO SUGGESTED THAT WE UNDERTAKE A SIMILAR REVIEW OF THE CONSTITUTION AND THE COMPACT FOR POSSIBLE INCONSISTENCIES AND CONFLICTS. THIS WE HAVE ALREADY DONE AND WE HAVE SHARED OUR CONCLUSIONS WITH THE LEADERSHIP OF THE CONGRESS OF MICRONESIA AND THE JOINT COMMITTEE ON FUTURE STATUS. WE ALSO PROVIDED THE JOINT COMMITTEE WITH OUR WRITTEN LEGAL COMPARISON OF THE TWO DOCUMENTS. A REVISED BRIEF ON THIS SUBJECT TAKING INTO ACCOUNT THE CHANGES MADE IN THE COMPACT DURING ROUND VIII IS ENCLOSED. IT MAY BE OF HELP IN EXPLAINING WHY THE COMPACT IN OUR JUDGEMENT CANNOT BE MADE TO CONFORM TO THE CONSTITUTION IF FREE ASSOCIATION REMAINS OUR COMMON OBJECTIVE.

GIVEN THE POLITICAL NATURE OF THE FUTURE POLITICAL STATUS WHICH WE HAVE BEEN NEGOTIATING FOR THE PAST FIVE YEARS, IT IS CLEAR THAT THERE ARE FUNDAMENTAL CONTRADICTIONS BETWEEN THE CONSTITUTION AND THE COMPACT - IN BOTH POLITICAL AND LEGAL TERMS. IMPLICIT IN THE LANGUAGE OF THE CONSTITUTION IS THE ESTABLISHMENT OF AN INDEPENDENT MICRONESIA WITH ALL OF THE ATTRIBUTES AND RESPONSIBILITIES OF A SEPARATE AND INDEPENDENT INTERNATIONAL POLITICAL ENTITY. FREE ASSOCIATION ON THE OTHER HAND, IN ACCORDANCE WITH INTERNATIONAL USAGE OF THIS TERM, CALLS FOR A

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VOLUNTARY TERMINABLE POLITICAL ASSOCIATION BETWEEN AN INTERNALLY SELF-GOVERNING PEOPLE AND A FULLY INDEPENDENT NATION. AS THE TERM IS USED IT IS NOT A POLITICAL ASSOCIATION BETWEEN TWO INDEPENDENT STATES.

IT IS NOT A QUESTION OF THE U.S. CHALLENGING THE SOVEREIGN RIGHT OF THE PEOPLE OF MICRONESIA TO GOVERN THEMSELVES

UNDER A CONSTITUTION OF THEIR OWN CHOOSING. IT IS NOT A QUESTION OF THE U.S. BEING FOR OR AGAINST THE CONSTITUTION AS WRITTEN. IT IS NOT A QUESTION OF THE U.S. INSISTENCE UPON CHANGE OR UPON PITTING THE CONSTITUTION AGAINST THE COMPACT. IT IS NONE OF THESE THINGS. IT IS SIMPLY A QUESTION OF AN OBJECTIVE COMPARATIVE LEGAL ANALYSIS OF THE COMPATIBILITY OF THE TWO DOCUMENTS.

WHILE THERE ARE INCONSISTENCIES IN THE TWO DOCUMENTS AS WRITTEN THEY CAN CO-EXIST WITHOUT BEING BROUGHT INTO STRICT CONFORMITY WITH EACH OTHER. SECTION 101 OF THE REVISED COMPACT WOULD MAKE THIS POSSIBLE WITHOUT AMENDING EITHER THE COMPACT OR THE CONSTITUTION. THE ADDITION OF SIMILAR LANGUAGE IN THE CONSTITUTION WOULD FURTHER ASSURE THE CO-EXISTENCE OF THE COMPACT AND THE CONSTITUTION SO LONG AS MICRONESIA AND THE UNITED STATES REMAINED IN A FREE ASSOCIATION RELATIONSHIP.

WE WOULD BE INTERESTED IN YOUR VIEWS ON THIS MATTER AND WE WOULD ALSO LIKE TO BE INFORMED OF THE RESULTS OF THE OLTER COMMITTEE'S REVIEW OF THE COMPACT AND THE CONSTITUTION REFERRED TO IN YOUR LETTER OF JUNE 22. THE SUCCESSFUL CONCLUSION OF THE REMAINING SECTIONS OF THE COMPACT WILL OF COURSE DEPEND UPON A CLEAR MUTUAL UNDERSTANDING OF THE STATUS OF THE PRESENTLY INITIALLED COMPACT. THE COMPACT CANNOT BE COMPLETED - THAT IS, THE MARINE RESOURCES QUESTION AND A FINAL U.S. AGREEMENT ON THOSE SECTIONS DEALING WITH THE LEVELS AND ALLOCATION OF FINANCIAL ASSISTANCE TO BE PROVIDED - SO LONG AS THE QUESTION OF THE BASIC PROVISIONS OF THE COMPACT REMAINS IN LIMBO AND SO LONG AS UNCERTAINTY EXISTS AS TO WHETHER OR NOT THE ADREFERENDUM AGREEMENTS REACHED TO DATE WILL HOLD AND WHETHER OR NOT THE U.S. AND YOUR NEW COMMISSION

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ACTING ON BEHALF OF THE CONGRESS OF MICRONESIA ARE IN FACT IN AGREEMENT AS TO THE BASIC NATURE OF THE RELATIONSHIP BEING SOUGHT.

IN SUMMARY WHILE I WOULD LIKE TO UNDERScore MY BELIEF THAT THE COMPACT AND THE CONSTITUTION CAN CO-EXIST, GIVEN THE LANGUAGE OF SECTION 101 OF THE COMPACT AND THE ADDITION OF A SIMILAR PROVISION IN THE CONSTITUTION, IT IS OF GREAT IMPORTANCE FOR US TO KNOW WHETHER THE NEW COMMISSION SHARES THIS VIEW.

WE WILL LOOK FORWARD TO THE COMMISSION'S RESPONSE TO THESE VERY FUNDAMENTAL QUESTIONS.

SINCERELY YOURS, F. HAYDN WILLIAMS, THE PRESIDENT'S

PERSONAL REPRESENTATIVE FOR MICRONESIAN STATUS NEGOTIATIONS

CC: SENATOR BAILEY OLTER

- SENATOR PETRUS TUN
- PRESIDENT TOSIWO NAKAYAMA
- SPEAKER BETHWEL HENRY

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